

VZCZCXYZ0000
PP RUEHWEB

DE RUEHC #0633 1630133
ZNR UUUUU ZZH
P 120109Z JUN 09
FM SECSTATE WASHDC
TO AMEMBASSY ASTANA PRIORITY 0000

UNCLAS STATE 060633

SIPDIS

E.O. 12958: N/A

TAGS: [ELAB](#) [KCRM](#) [KWMN](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#) [KPAO](#) [KTIP](#) [KZ](#)
SUBJECT: KAZAKHSTAN--2009 TIP REPORT: PRESS GUIDANCE AND
DEMARCHE

REF: A. 2009 STATE 59732
[B.](#) 2009 STATE 5577

¶1. This is an action cable; see paras 5 through 7 and 10.

¶2. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

¶3. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Kazakhstan of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Kazakhstan and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/not precede the Secretary's release at 10:00 am EDT on June 16.

¶4. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

¶5. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Kazakhstan of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

¶6. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing

the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of Kazakhstan's country narrative in the 2009 TIP Report:

Kazakhstan (TIER 2)

Kazakhstan is a source, transit, and destination country for men, women, and children from Uzbekistan, Tajikistan, and Kyrgyzstan trafficked to Russia and the UAE for the purposes of commercial sexual exploitation and forced labor in the construction and agricultural industries. Women from Kazakhstan are trafficked to China and Turkey for the purpose of commercial sexual exploitation. Kazakhstan is a destination country for a significant number of Uzbek men, women, and girls trafficked for the purposes of commercial sexual exploitation and forced labor, including domestic servitude and forced labor in the tobacco, cotton, and meat processing industries. Men, women, and children are trafficked internally for the purposes of forced labor and forced prostitution.

The Government of Kazakhstan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Over the last year, the government demonstrated increased efforts to investigate, prosecute, and convict traffickers and improved efforts to prosecute labor traffickers. It also significantly increased funding for public awareness efforts.

The government, however, identified a smaller number of victims over the reporting period.

Recommendations for Kazakhstan: Increase efforts to identify both sex and labor trafficking victims; increase the number of victims who receive government-funded assistance by increasing funding to anti-trafficking NGOs; and conduct trafficking awareness campaigns aimed at reducing the demand for both labor trafficking and commercial sexual exploitation.

Prosecution

The Kazakhstan government demonstrated some progress in its anti-trafficking law enforcement efforts over the reporting period. Kazakhstan prohibits trafficking in persons for both labor and sexual exploitation through Articles 128, 133, 125(3)(b), 126(3)(b), and 270 of its penal code, which prescribe penalties of from 5 to 15 years' imprisonment) penalties sufficiently stringent and commensurate with those prescribed for other grave crimes, such as rape. Police conducted 44 trafficking investigations, a significant increase from 22 investigations in 2007. Authorities prosecuted 30 cases in 2008, up from 16 prosecutions in 2007.

Twenty-four trafficking offenders were convicted -- including 18 for sex trafficking offenses and 6 for labor trafficking offenses -- up from 19 trafficking convictions in ¶2007. Only one trafficker received a suspended sentence and served no time in prison. Twelve sex trafficking offenders were given sentences ranging from between 1.5 to 6 years' imprisonment and six sex trafficking offenders were given sentences ranging from 7 to 11 years' imprisonment; four labor traffickers were given sentences ranging from 1.5 to 5 years' imprisonment and two labor traffickers were given sentences ranging from 6.5 to 10 years' imprisonment. The

government did not investigate, prosecute, convict, or punish government officials complicit in trafficking in 2008.

Protection

The government's efforts to assist and protect victims decreased during the year. NGOs continued to report that local police and government officials lacked awareness about labor trafficking, causing some labor trafficking victims to go unidentified during the year. The police formally identified 50 victims, a significant decrease from 112 victims identified by police in 2007. NGOs and IOM assisted 64 victims in 2008, including 22 victims assisted by government-funded programs. Kazakhstan allocated \$45,838 for victim assistance in 2008, compared to \$35,000 in 2007.

Twenty-two victims were assisted by government-funded programs during the reporting period. A local government provided modest assistance for one anti-trafficking shelter in 2008. The Ministry of Foreign Affairs paid for the repatriation of some Kazakh victims trafficked abroad. The government encouraged victims to participate in the investigation and prosecution of trafficking offenses.

Foreign victims who agreed to cooperate with law enforcement were permitted to remain in Kazakhstan for the duration of the criminal investigation; no reported victims received temporary residence permits in 2008. Many victims refused to testify for fear of retribution from traffickers and because the government had not devoted sufficient resources for the protection of victims who serve as witnesses for the prosecution. The law provides that victims are not penalized for unlawful acts committed as a direct result of being trafficked.

Prevention

The government significantly increased its funding for trafficking prevention efforts during the reporting period. In 2008, the government allocated \$333,000 for nation-wide anti-trafficking awareness campaign advertised on television, radio, in newspapers, and in magazines; a total of 300 trafficking television and radio programs aired and 400 trafficking articles were published. The government also funded NGOs to produce trafficking awareness brochures for Kazakh nationals traveling abroad. Most trafficking awareness efforts in 2008 were targeted at potential victims of trafficking and did not address the demand for trafficking.

¶9. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims' labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1 -- or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 13. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers' home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries' "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers' profits are estimated at \$31 billion. The

current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or though the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

¶Q. Why was Kazakhstan given a ranking of Tier 2?

¶A. The Government of Kazakhstan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government, however, identified a smaller number of victims over the reporting period.

¶Q. What progress did Kazakhstan make in the past year?

¶A. The government demonstrated increased efforts to investigate, prosecute, and convict traffickers and improved efforts to prosecute labor traffickers. It also significantly increased funding for public awareness efforts.

¶Q. What can Kazakhstan do to improve its fight against trafficking in persons?

¶A. Increase efforts to identify both sex and labor trafficking victims; increase the number of victims who receive government-funded assistance by increasing funding to anti-trafficking NGOs; and conduct trafficking awareness campaigns aimed at reducing the demand for both labor trafficking and commercials sexual exploitation.

¶12. The Department appreciates posts' assistance with the preceding action requests.

CLINTON